



IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH COURT-III

I.A. 4386/2023

IN

C.P. NO. (IB) 746/MB/C-III/2022

Under Section 33(1) of Insolvency and Bankruptcy Code, 2016.

Shashant Sudhakar Yeola)
Resolution Professional for)
M/s. Warden Surgical Company Pvt. Ltd.) **..Applicant**

IN THE MATTER OF

ASREC (India) Ltd.

Having registered office at
Unit no. 201, 200A, 202 & 200B,
Ground Floor, Building No. 2, Solitaire
Corporate Park, Andheri (East), Kurla Road,
Maharashtra – 400059.

...Financial Creditor

Vs.

M/s. Warden Surgical Company Pvt. Ltd.

Having registered office at
7/8, Parel House, Dr. Borges Road,
Parel, Mumbai, Maharashtra – 400012.

....Corporate Debtor

Order Pronounced on: 30.10.2024

Coram:

Hon'ble Smt. Lakshmi Gurung, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati (Technical)

Appearances:

For the Applicant: Adv. Agam H. Maloo and Adv. Prakhar Tandon

Per: Smt. Lakshmi Gurung, Member (Judicial)



ORDER

1. The present application is filed under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 by Mr. Shashank Sudhakar Yeola, bearing IP Registration No. IBBI/IPA001/IPP00310/2017-18/10574) seeking liquidation along with the following reliefs:

A. *That this Hon'ble Tribunal be pleased to pass an order directing the Liquidation of the Corporate Debtor.*

B. *That this Hon'ble Tribunal be pleased to Pass an order directing to appoint Mr. Ganesh Venkata Siva Rama Krishna Remani, Insolvency Professional, having reg. no IBBI/IPA-001/IP-P01386/2018-19/12176, to act as the Liquidator of the Corporate Debtor;*

C. *That this Hon'ble Tribunal be pleased to pass such orders as may deem just and proper by the Hon'ble Bench.*

Brief Facts

2. M/s. Warden Surgical Company Private Limited ('Corporate Debtor') was incorporated under the Companies Act, 1956 on 19.01.1970. The main objective of the Corporate Debtor is business in all kinds of varieties of Surgical Instrument, Orthopaedic Implants, Hospital Furniture, Hospital Equipment, Electro Medical equipments, Surgical Dressings, Disinfectants, Chemicals, Absorbent gauze, Absorbent Cotton, Bandage, Surgical Rubber



Goods, Laboratory Glassware, Hospital enamel ware, Stainless Steel ware, first Aid Box, Emergency supply equipments provided in ambulance including/oxygen cylinders, rehabilitation aids and all other Hospital requisites required by the Hospitals, Nursing Homes Veterinary Clinics/ Colleges and Medical Profession relating to all disciplines of medicine.

3. The **C.P. NO. (IB) 746/MB/C-III/2022** was **admitted** by this Tribunal and CIRP was initiated against the Corporate Debtor vide an order dated 09.01.2023. The Applicant was appointed as the Interim Resolution Professional of the Corporate Debtor.
4. Pursuant to the CIRP, the Applicant published the requisite 'Form A' dated 20.01.2023 as per Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for calling claims from creditors. After verifying the claims, the CoC was formed with **ASREC (India) Limited as the sole member of CoC with 100% voting right** which was submitted before this Tribunal through I.A. 2261/2023.
5. During the 1st CoC Meeting held on 01.03.2023, the Applicant was confirmed as the Resolution Professional (RP).
6. As per Regulation 27 of the CIRP Regulations, 2016, six Registered Valuers, two each for 'Land and Building' class, 'Securities and Financial Assets' and 'Plant and Machinery' class were appointed to determine the "Fair Value" and "Liquidation Value" of the Corporate Debtor on 06.03.2023. The valuation summary report submitted by the registered valuers has been reproduced below: -



Particulars of Assets	Valuation Set 1		Valuation Set 2		Average Valuation	
	Fair Value	Liquidation Value	Fair Value	Liquidation Value	Fair Value	Liquidation Value
Land & Building	8,11,12,000	7,45,10,000	6,01,35,840	5,41,22,256	7,78,11,000	6,73,22,920
Plant & Machinery	17,72,476	14,17,000	4,27,483	3,41,986	15,94,738	9,22,241.5
Security & Financial Assets	1,09,42,860	98,48,574	1,19,18,709	1,00,52,353	1,03,95,717	1,08,83,641.5
Total	9,38,27,336	8,57,75,574	7,24,82,032	6,45,16,595	8,98,01,455	7,91,28,803

7. Consequent to the 2nd CoC Meeting held on 21.03.2023, the Applicant published Invitation for Expression of Interest (“EoI”) in ‘Form G’ on 25.03.2023 in the two leading newspapers of Mumbai, Maharashtra, with wide circulation as per Regulation 36A of the CIRP Regulations, 2016 and the last date of submission of the EoI was 09.04.2023. Due to non-receipt of Earnest Money Deposit from the Prospective Resolution Applicant, the Applicant conducted the 3rd CoC Meeting on 24.04.2023, suggesting the CoC members to publish another ‘Form-G’ for the interested Prospective Resolution Applicant to participate in the CIRP. The Applicant published another ‘Form-G’ for inviting the Expression of Interest (“EoI”) on 28.04.2023 in two leading newspapers of Mumbai, Maharashtra, with wide circulation as per Regulation 36A of the CIRP Regulations, 2016 where the last date of submission of EoI was 13.05.2023.
8. Thereafter, the Applicant prepared the Provisional List of eligible Prospective Resolution Applicants under Sub-Regulation 10 of the



Regulation 36A of the CIRP Regulations and submitted the list to the CoC on 23.05.2023.

9. In the 4th CoC Meeting held on 18.05.2023, the Applicant circulated for approval of Request for Resolution Plan, Information Memorandum and the Evaluation Matrix by the CoC members. The same was shared with the Prospective Resolution Applicants on 28.05.2023 where the last date of receipt of Resolution Plan for the Corporate Debtor was 27.06.2023.
10. On 27.06.2023, the Prospective Resolution Applicant requested for extending the period of submission of Resolution Plan by 15 days from 27.06.2023. Therefore, as per Regulation 36B (6) of the CIRP Regulations and as per point 1.10 of the issued RFRP, the RP could extend the timeline of submission of resolution plan on approval of the CoC member.
11. On 28.06.2023, the CoC members approved to extend the period of submission of Resolution Plan by the Prospective Resolution Applicant by 15 days i.e., 12.07.2023.
12. In the 5th CoC Meeting held on 04.07.2023, the Applicant informed the members that 180 days of the CIRP period were ending on 08.07.2023 and that it will be impractical to complete the said process on or before 08.07.2023. Accordingly, the Applicant filed the I.A. No. 2946/2023 seeking for the extension of the CIRP period by 90 days i.e. from 08.07.2023 to 06.10.2023. The Tribunal granted the extension vide their order dated 14.07.2023.
13. The management of the Corporate Debtor shared inadequate information with the Applicant therefore, the Applicant filed the I.A. No. 2031 of 2023 under Section 19(2) of the IBC, 2016. This



Application was subsequently disposed of, since the Corporate Debtor's management provided the requisite information to the Resolution Professional.

14. The 15 days' extension was granted from 27.06.2023 for the submission of the Resolution Plan by the Prospective Resolution Applicant('PRA'). The PRA failed to submit the plan on or before 12.07.2023 in the manner as specified in the Request for Resolution Plan and EoI and requested for a refund of the EMD amount.
15. The 6th CoC Meeting was held on 17.07.2023 in which the Applicant and the CoC members concluded to publish a fresh invitation for EoI. The Applicant published another 'Form G' for inviting the EoI from the PRA on 19.07.2023 in two leading newspapers of Mumbai, Maharashtra with wide circulation as per Regulation 36A of the CIRP Regulations, 2016 whereas the last date of submission of EoI was 03.08.2023.
16. In the 7th CoC Meeting held on 11.08.2023, the Applicant informed the CoC members that since no EoI was received along with the requisite documents and EMD amount and there being no possibility of Corporate Debtor's Resolution, the Liquidation of the Corporate Debtor has to be proceeded with, as per the provisions of the IBC, 2016. The CoC members approved the Liquidation of Corporate Debtor and approved the appointment of Mr. Ganesh Venkata Siva Rama Krishna Remani, Insolvency professional, having Reg. No. BBI/IPA-001/IP-P01386/2018-19/12176, to act as the liquidator of the Corporate Debtor. The following resolutions were passed and voted with 100% in favour, in the 7th CoC Meeting:

-



“RESOLVED THAT pursuant to provision of section 33 of the IBC, 2016 the Committee of Creditor hereby confirm to liquidate – Warden Surgical Company Private Limited in this meeting held on 11th August, 2023.

RESOLVED FURTHER THAT Mr. Ganesh Venkata Siva Rama Krishna Remani, Insolvency professional, having Reg. No. BBI/IPA-001/IP-P01386/2018-19/12176 be and is hereby appointed to act as a liquidator of the CD.

RESOLVED FURTHER THAT, the Resolution Professional Mr. Shashant Sudhakar Yeola, be and is hereby authorized to file the necessary application for initiation of Liquidation and to do all such acts, deeds as may be deemed fit to give effect to the said resolution.

RESOLVED THAT pursuant to Regulation 39B of CIRP Regulations, 2016, the estimate of the amount required to meet Liquidation Costs in the event an order for Liquidation is passed under section 33 shall be as per the attached Annexure No. 1.

RESOLVED FURTHER THAT the aforesaid fees and expenses shall form part of the Liquidation process cost.

RESOLVED FURTHER THAT the liquidation cost will be contributed by the financial creditors as per



the Voting Share in a separate bank account, opened by the Liquidator during the Liquidation.

RESOLVED THAT *pursuant to Regulation 39C of CIRP Regulations, 2016, the CoC recommends that the Liquidator may explore sale of Corporate Debtor as a going concern under clause (e) of Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, if an order for liquidation is passed under section 33.*

Or alternatively

RESOLVED THAT *pursuant to Regulation 39C of CIRP Regulations, 2016, the COC recommends that the Liquidator may explore sale of the business of the Corporate Debtor as a going concern under clause (f) of Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, if an order for liquidation is passed under section 33.*

RESOLVED THAT *pursuant to Regulation 39D of CIRP Regulations, 2016, the committee in consultation with the Resolution Professional, the fees of Mr. Ganesh Venkata Siva Rama Krishna Remani, Insolvency professional, having Reg. No. BBI/IPA-001/IP-P01386/2018-19/12176, to act as the Liquidator, as per Section 33 of the Code is hereby approved as per the provisions of Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.*



RESOLVED FURTHER THAT the aforesaid fees and expenses shall form part of the Liquidation process cost.”

17. There are no transactions found as per Sections 43, 45, 50 and 66 of the Code, therefore, no such applications were filed before this Tribunal.
18. We note in the present case, no EoI was received along with the requisite documents and EMD amount and there are no Resolution Plans. The Committee of Creditors with 100% voting has decided to proceed with liquidation. In the absence of any resolution plan, there is no other option but to order for liquidation of the Corporate Debtor. Accordingly, this is a fit case for liquidation of the company with the following directions: -
 - a. The **Corporate Debtor is directed to be liquidated** in accordance with the provisions of the Insolvency & Bankruptcy Code, 2016 and applicable regulations.
 - b. After looking into the consent given by the Insolvency Professional and the resolutions passed in the 7th CoC Meeting, we hereby appoint **Mr. Ganesh Venkata Siva Rama Krishna Remani**, Insolvency professional, bearing Reg. No. **IBBI/IPA-001/IP-P01386/2018-2019/12176** having AFA, valid up to 31.12.2025 and residing at; 302, Nahar Business Center Chandivali, Mumbai Suburban, Maharashtra, 400076 as the Liquidator in terms of Section 34 of the Code.
 - c. Registry is directed to send a copy of the order to the Registrar of Companies, Mumbai and the Insolvency and Bankruptcy Board of India.



- d. A fresh moratorium shall commence under Section 33(5) of the Insolvency and Bankruptcy Code.
- e. This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the IBC Code, 2016.
- f. The Liquidator is directed to proceed with the process of liquidation as laid down under Chapter III of the Part II of Insolvency and Bankruptcy Code, 2016 and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- g. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) regulations, 2016.
- h. The Liquidator appointed under section 34 of the Code shall have all powers of the Board of Directors, Key Managerial Personnel and the existing Board of the Corporate Debtor, the Key Managerial Persons and the partners shall cease to have effect.
- i. The personnel of the corporate debtor shall extend all co-operation to the Liquidator as required by him in managing the Liquidation process of the Corporate Debtor.
- j. The fees entitled to the Liquidator as per the Resolution passed in the 6th CoC Meeting shall be **Rs.1,00,000/-** per month excluding applicable taxes.



- k. A copy of the said order shall be sent to the Financial Creditors, Corporate Debtors and the liquidator for taking necessary steps.
19. Hence, **I.A. No. 4386 of 2023** in C.P. No. 746 of 2022 is **allowed and stands disposed of**.
20. No other Interlocutory Applications are pending before this Tribunal in C.P. No. 746 of 2022

Sd/-

Charanjeet Singh Gulati

Member (Technical)

Vaishnavi, LRA

Sd/-

Lakshmi Gurung

Member (Judicial)